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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,690	07/27/2006	Andreas Bar	7395-000064/US/NP	3521
27572 7590 01/22/2009 HARNESSE, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303				
EXAMINER KRAUSE, JUSTIN MITCHELL				
ART UNIT 3656		PAPER NUMBER		
MAIL DATE 01/22/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/587,690

**Applicant(s)**

BAR ET AL.

**Examiner**

JUSTIN KRAUSE

**Art Unit**

3656

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date 11/20/06 7/27/06

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-7 are generally narrative, mixing positively recited structure with functional language such that is not clear what exactly should be given patentable weight. For clarity and readability, the examiner suggests re-writing claims 1-7 in accordance with 37 CFR 1.75(i) so as to make clear what the applicant intends to positively recite and have patentable weight given to.

Claim 4 recites, "a guide part and one respective wing at both sides", then further recites, "the two parallel wings" for which there is no antecedent basis. The "one respective wing at both sides" and "the two parallel wings" appear to be the same. The examiner suggests amending the claim to read --a guide part and two parallel wings, one respective wing at each side of the guide part-- to make the limitation read clearer.

Regarding claim 5, there is no antecedent basis for "the peripheral zones". Also in claim 5, if applicant adopts the examiner's suggested language for claim 4, it is

suggested that "the wings" in claim 5 be changed to --the parallel wings-- for consistency.

Regarding claims 4 and 6, clarification of "the longitudinal direction", "the peripheral direction, and "the displacement direction" is required. The longitudinal direction is assumed to be along the axis of the shaft, which would be the same direction as the displacement direction. If this is the case, then a single direction should be used (either longitudinal or displacement) and the peripheral direction is believed to be rotation, about the periphery of the shaft. Clarification is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (US Patent 3,370,477) in view of Baasch et al (US 2002/0062706).

Lewis discloses a transmission, comprising: a displaceable shift member (14) by means of which the transmission can be shifted, wherein the shift member is displaceable by means of a shift fork unit (Figs 1 or 2) moved by an actuator (while not shown, it is inherent that the shift fork is moved by some form of actuator), a shaft (20), a gate (64, 62) and a spring accumulator (22), wherein a rotational movement of

the shaft is translated into a displacement of the shift fork by means of the gate, wherein the gate is formed on a sleeve (18, 16) that is rotationally fixedly connected to the shift fork unit, with the sleeve acting on the shift fork unit via the spring accumulator in the direction of the displacement, with the shaft passing through the sleeve and having a radially projecting finger (68, 70) cooperating with the gate.

Lewis does not explicitly disclose and the actuator having a motor or geared motor.

Baasch teaches a shifting device for a transmission having a motor (8) as an actuator for the shifting of a transmission, and further discloses that it is known in the art to use electro-motors as a drive system for actuating gear selectors (paragraph 0004).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lewis to use a motor or geared motor as an actuator, since the use of electro-motors is known within the art as a means to actuate gear selectors as taught by Baasch.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al (US Patent 6,619,153) in view of Lewis (US Patent 3,370,477).

Smith discloses a transmission, comprising: a displaceable shift member (40) by means of which the transmission can be shifted, wherein the shift member is displaceable by means of a shift fork unit (72) moved by an actuator (78) and the actuator has a motor (166), a shaft (70), a gate (92) and a spring accumulator (150),

wherein a rotational movement of the shaft is translated into a displacement of the shift fork by means of the gate.

Smith does not disclose the gate is formed on a sleeve that is rotationally fixedly connected to the shift fork unit, with the sleeve acting on the shift fork unit via the spring accumulator in the direction of the displacement, with the shaft passing through the sleeve and having a radially projecting finger cooperating with the gate.

Lewis teaches a gate (62) formed on a sleeve that is rotationally fixedly connected to the shift fork unit, with the sleeve acting on the shift fork unit via the spring accumulator (22) in the direction of the displacement, with the shaft (20) passing through the sleeve and having a radially projecting finger (70) cooperating with the gate for the purpose of actuating the shift fork.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Smith to include a gate formed on a sleeve that is rotationally fixedly connected to the shift fork unit, with the sleeve acting on the shift fork unit via the spring accumulator in the direction of the displacement, with the shaft passing through the sleeve and having a radially projecting finger cooperating with the gate for the desired purpose of actuating the shift fork as taught by Lewis.

Regarding claim 2, the shift fork unit of Smith forms a housing (100 + 130) which surrounds the sleeve (152) and the spring accumulator (150) and which has support surfaces (112, 134) by means of which the shift fork unit is guided on the shaft in the direction of the displacement.

Regarding claim 3, the sleeve is surrounded by a compression spring whose end windings cooperate with steps in the interior of the housing (Smith, fig 3).

***Allowable Subject Matter***

Claims 4-7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN KRAUSE whose telephone number is (571)272-3012. The examiner can normally be reached on Monday - Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Justin Krause/  
Examiner, Art Unit 3656

/Richard WL Ridley/  
Supervisory Patent Examiner, Art Unit 3656